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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/574,191 | 09/14/2006 | Frieder Grieshaber | 06803/Z07918Q | 7141 |

27752 7590 06/29/2010

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
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| EXAMINER | |
|---|---|
| NGUYEN, TUAN VAN | |
| ART UNIT | PAPER NUMBER |
| 3731 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/29/2010 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/574,191 | GRIESHABER ET AL. | |
| | Examiner | Art Unit | |
| | TUAN V. NGUYEN | 3731 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *09 April 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-9,12,13,15-20,22 and 23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9,12,13,15-20,22 and 23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 March 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *6/14/10*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

1. Claims 1-23 were pending in this application. Claims 1-23 were examined and rejected in the Office action mailed out on 12/30/09.

2. This Office action is in response to the amendment filed on 4/09/2009.

### *Response to Amendment*

3. Applicant's arguments with respect to the rejection of claims 1-9, 12-13, 15-20, and 22-23 under 35 USC § 103 as being unpatentable over Magnus et al. (U.S. 2,423,245) in view of Floessholzer et al. (US Pub. No. 2006/0004383 A1) further in view of Zelickson et al (US 7,354,423) have been fully considered but they are moot in view of new ground of rejection. The new ground of rejection is based on the JP-2001-128728 A reference, which is cited in the Information Disclosure Statement filed on 6/14/2010. This Office Action is made final and it is proper.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

    1. Determining the scope and contents of the prior art.
    2. Ascertaining the differences between the prior art and the claims at issue.
    3. Resolving the level of ordinary skill in the pertinent art.
    4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. **Claims 1-9, 12, 13, 15-20 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Magnus et al. (U.S. 2,423,245) in view of Floessholzer et al. (US Pub. No. 2006/0004383 A1) further in view of JP-2001-128728 A, hereinafter '728.**

7. Magnus discloses (see Fig. 5) a method of removing hair by using an epilator 1 comprising a tape 7, pressure device 20 for applying the tape against the skin, the tape is fed from the pressure device to the deflector devices 8 and the opposing corner of 8. The epilator also includes supply reels 2 and take-up reel 4 (col. 3, line 65 to col. 4, line 29). Magnus discloses the invention substantially as claimed except for the two deflector elements are rotatably suspended, the drive motor which drive the take-up reel, and the drive motor is activated when the epilator apparatus is applied against the skin. However, in an alternative embodiment (Fig. 6) Magnus discloses the roller 33 or deflector element is rotatably suspended. It has been held that substitution of one known element for another to obtain predictable result is old and well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to replace the deflectors as disclosed in

Fig. 5 with two deflectors as disclosed in Fig. 6. Magnus discloses the invention substantially as claimed except for the drive motor for driving the take-up reel, and when the epilator apparatus is applied pressure against the skin activates the switch to activate the drive motor, thereby to drive the take-up reel.

8. However, Floessholzer discloses using drive motor to drive the supply and take up tape is old and well known in the art. It has been held that replacing mechanical component with electro-mechanical component to improve efficiency of the device is old and well known in the art. Therefore, it would have been obvious to replace the thumb wheel 5 of Magnus et al with a drive motor to improve the efficiency of the device.

9. However, '728 discloses a device of removing hair from a skin, comprising, among other things: a pressure sensor for actuating the motor of the device (paragraph [0054] and [0057]). It would have been obvious to one of ordinary skill in the art to provide a pressure sensor mechanism to actuate the drive motor of Magnus/Floessholzer only when it is in the position that ready to operate to improve the effectiveness of the device.

10. **Claims 16-20, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Magnus et al. (U.S. 2,423,245) in view of Floessholzer et al. (US Pub. No. 2006/0004383 A1) further in view of Brown et al (US Pub. No. 2005/0234477).**

11. Magnus discloses (see Fig. 5) a method of removing hair by using an epilator 1 comprising a tape 7, pressure device 20 for applying the tape against the skin, the

tape is fed from the pressure device to the deflector devices 8 and the opposing corner of 8. The epilator also includes supply reels 2 and take-up reel 4 (col. 3, line 65 to col. 4, line 29). Magnus discloses the invention substantially as claimed except for the two deflector elements are rotatably suspended, the drive motor which drive the take-up reel, and the drive motor is activated when the epilator apparatus is applied against the skin. However, in an alternative embodiment (Fig. 6) Magnus discloses the roller 33 or deflector element is rotatably suspended. It has been held that substitution of one known element for another to obtain predictable result is old and well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to replace the deflectors as disclosed in Fig. 5 with two deflectors as disclosed in Fig. 6. Magnus discloses the invention substantially as claimed except for the drive motor for driving the take-up reel, and when the epilator apparatus is applied pressure against the skin activates the switch to activate the drive motor, thereby to drive the take-up reel.

12. However, Floessholzer discloses using drive motor to drive the supply and take up tape is old and well known in the art. It has been held that replacing mechanical component with electro-mechanical component to improve efficiency of the device is old and well known in the art. Therefore, it would have been obvious to replace the thumb wheel 5 of Magnus et al with a drive motor to improve the efficiency of the device.

13. However, Brown discloses a device of removing hair from a skin, comprising, among other things: wherein the motor driving the burr is controlled using a

proximity switch so that the device does not need to be put down, and nor does the switch need to be touched, to effect control of the motor (paragraph [0010]). It would have been obvious to one of ordinary skill in the art to provide a proximity sensor mechanism to actuate the drive motor of Magnus/Floessholzer only when it is in the position near the skin of the user to improve the effectiveness and conserving the resources of the device.

## ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TUAN V. NGUYEN whose telephone number is (571)272-5962. The examiner can normally be reached on 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, AnhTuan Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/T. V. N./
Examiner, Art Unit 3731

/Anhtuan T. Nguyen/
Supervisory Patent Examiner, Art Unit 3731
6/26/10